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REVIEWS

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REVIEWS.

A Concise Treatise on Contracts, upon a New Plan. By William T. Hughes, author of *Technology of Law*. Chicago, Callaghan & Co. 1903. pp., 608.

This work is one of unquestionable originality. It is also a monument of industry, and contains a large amount of valuable information. That the information is so selected and arranged as to be useful and that the work will be of practical service to the profession is not so clear.

It is divided into three parts. The first is styled "Fundamental Conceptions," and consists of maxims and statements of truths chosen apparently at random. Part Two is headed, "Leading Branches of the Subject," and contains a statement of elementary principles in text book form with references to cases. The treatment is fragmentary and the subjects discussed seem to have been selected without much attempt at system. For instance, it starts out in the first section with a definition of contracts. Then follow observations upon judgments as contracts. The next section seems to digress into the field of evidence and tells us how contracts may be proved.

This fragmentary treatment is typical of the whole work. Although less than two hundred pages are devoted to a statement of elementary principles, the author continually digresses into other fields and secures brevity, not by confining himself to essentials, but by leaving out whole branches of the subject. For instance, the chapter on Bailments is confined to the most unimportant bailments, viz., those that are gratuitous. By this process of elimination, the author finds room, under Statute of Frauds, to give a form for a deed occupying about half a page. Under the head of Construction, we are given two or three rules with nothing about the rest.

In order to find what is contained in these two hundred pages, in large type, we must refer to the index, which occupies about four hundred pages of small type. This "Text-Index" is the characteristic part of the whole work and the book will probably stand or fall with it. It is alphabetically arranged and is an index, not only to the earlier parts of the book but to authorities on the law generally. Its titles include subjects, maxims and cases. It is to be regretted that the author did not give us a short, understandable explanation of the plan of the index in a few words, in place

of the cumbersome title page and the lengthy preface, which were written principally for the purpose of this explanation.

The mechanical arrangement, in the first place, is defective in that the type used for sub-headings is often more prominent than that used for the headings, and one is apt to be misled by this in using the book for rapid reference. The idea can perhaps be best understood by taking a title under C, "Conditional Sales." We are first given cases and text book authorities which distinguish mortgages from conditional sales, but the distinction is not stated. Then it is said that the courts will construe a document to be a mortgage rather than a conditional sale. Then follows the truthful but somewhat indefinite statement that "conditional sales are valid against creditors," and the rule is laid down that the condition may be that the entire purchase price shall be paid. We are then told that certain cases construe contracts of sale and return, are given a number of cases which consider the subject of conditional sales "generally," and finally a case treating on "sales" generally.

Now all this information is well enough, but it is only such as can be easily gleaned from any one of fifty existing books. It is not definite enough to be of any particular use. The oft lamented difficulty as to finding the law is the difficulty of finding just what the law is upon some specific point. There is never any difficulty in finding a number of general statements upon a general subject. The same remark would apply to the treatment of the different cases in the text-index. Reference to the various series of reports is given and we are given a hint as to what the case decides. The trouble is that very few readers would be looking for the particular case. The number of strictly leading cases in the law is small and nine-tenths of the cases in this or any other work are simply illustrative.

In other words, the book seems to cover, after all, about the same ground that other text books do, without even their definiteness. While the book is a work upon contracts, the author seems to put in almost anything else that strikes his fancy. In the midst of his text-index, under the letter C, there is injected a treatise on Crimes, occupying about eighty-five pages. The author may be correct enough in his view that the law is a connected whole, but this might, nevertheless, be called a digression. The truthful statement that the burden of proof in a law suit is upon the plaintiff, made on page 484, can hardly be called a principle of contract law.

The book reminds one of the scrapbook of a very industrious lawyer, arranged in some new fashion which is clear to himself but which the general reader would not understand. There is locked up in it a vast amount of valuable information, but even if the reader can find it the chances that just what he is looking for is there are too slender to tempt him to make the trial.

The author speaks of his work in the preface as heralding a new era. We are afraid, however, that the transition from the old to the new is a little too abrupt and that the influence of this

particular work can hardly be commensurate with the patience and industry shown by the author.

The very criticisms that we have made, however, suggest that the book is after all useful in a way. We have suggested that it covers the field of other works, and for a young man with a small library and without access to these other works, it would doubtless fill a place. The efforts of anyone who tries to raise the standard of law text book writing deserve sympathy and respect, and it is hoped that a sufficient number of readers will give to the author the encouragement and substantial returns which his ingenuity and industry merit.

G. E. B.

The Law of Real Property and Other Interests in Land. By Herbert Thorndike Tiffany. Keefe-Davidson Co., St. Paul. 1903. 2 vol., pp. xxxiii. -|- 1589, sheep.

The purpose of the author in this new exposition of the law of real property is evidently to present the modern law in a modern dress. He has departed from the classical analysis and order of Blackstone and those upon whose work the mind of Blackstone has left its visible impress. For example, the subject of "Mortgages" is removed from its historical setting among "Estates upon Condition" to a later volume, where it is placed under the head of "Liens." Another instance is the chapter on "Estates and Interests arising from Marriage," which is not put under the division of "Life Estates." Preference is also shown for untechnical rather than for technical expressions, as "Concurrent Ownership" instead of "Joint Estates."

But it does not require the author's statement of his purpose,— "to make plain the relations of the various branches of the subject to one another and to the whole,"—to convince one that novelty has here not been used for novelty's sake. For although the arrangement is in some important respects unusual and unfamiliar, it proves on examination to be natural and helpful, not only to the student and the layman, but to the lawyer who desires a new and clear view of this intricate branch of the law.

In the body of the work also is the modern and practical spirit shown. There is little trace of lengthy discussion of now academic difficulties which embarrassed and yet delighted the astute legal minds of a past age. At the same time the historical origins of fundamental legal principles have by no means been slighted, and their important developments have been traced to the present time. But the great value of the work lies in its very full presentation of existing law, as applied to existing conditions in the United States, in the explanation of the difficulties and conflicting doctrines vital to-day, and in the solutions offered.

The author's style is simple and direct, affording one of the chief charms of his work. The clear statements of rules and explanations will lend themselves readily to quotation as the book

becomes known, which it should rapidly do. A useful feature is the grouping of condensed statements of principles in black-letter type at the beginning of the chapters.

The cases cited are numerous, numbering apparently about 14,000. The notes are especially rich in references to standard treatises. In this connection a criticism may be offered, of the constant reference to Stimson's American Statute Law,—not that fewer citations of that valuable compilation are desirable, but that by much more frequent citation of the more important State statutes themselves, or by an appendix, much time might be saved for the busy practitioner and for those who have not ready access to the work referred to. A full index with cross-references adds greatly to the value of the book.

In these days of many law books, of which many are unreliable and many superfluous, this careful exposition of the modern law of real property will undoubtedly be recognized by the profession as a permanent and valuable contribution to legal literature.

G. N. W.

Collier on Bankruptcy. Fourth edition by William H. Hotchkiss, Referee in Bankruptcy at Buffalo, N. Y., and Lecturer on the Law of Bankruptcy in the Buffalo Law School. Matthew Bender, Albany, N. Y. 1903. Sheep, pp. 984.

As this work has passed through several previous editions and is well known to the profession, extended comment on the latest reprint is perhaps unnecessary. The editor has done his work carefully, making many material changes in the text, and bringing the book down to the passage of the Ray Act of Feb. 5th, 1903, amending the previous Law of 1898. The amendatory law greatly extended the scope of the prior act and corrected its defects, making a new edition of the standard books on bankruptcy necessary. And the rapid development of this branch of law during the past three years has been noted in the citation of all important cases. To the text itself has been appended a comprehensive selection of the forms in bankruptcy as prescribed by the Supreme Court of the United States, as well as the equity rules of the United States courts and the text of the Bankruptcy Acts of 1800, 1841, 1867 and 1898. On the other hand, much unnecessary matter added to prior editions has been omitted. The book, therefore, is a valuable handbook of the law and practice of bankruptcy. It is written in a clear style and it is historically complete and accurate. In this work especially do the indices, sub-indices and cross-references to the law of England and the prior acts of congress add to its value as a reference book.

R. H. S.